

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
JUDICIAL DISTRICT OF NEW MEXICO
DISTRICT OF NEW MEXICO

HENRY STACHURA,

05 NOV 15 PM 3:25

Plaintiff,

vs.

CIV - 05 - 1193
No. 1193
CLERK ALBUQUERQUE
LAM ACT

THE UNITED STATES OF AMERICA,

Defendant.

COMPLAINT FOR MEDICAL NEGLIGENCE

For his Complaint for Medical Negligence, Plaintiff states and alleges:

1. This civil action is brought against the United States for money damages for personal injury to Henry Stachura due to the negligent acts of employees of the United States of America at the Gallup Indian Medical Center.
2. This complaint is brought pursuant to the provisions of the Federal Tort Claim Act ("FTCA"), 28 U.S.C. § 1346(b) and 28 U.S.C. § 1331. These statutes vest jurisdiction with this Court.
3. Plaintiff is a resident of New Mexico.
4. The negligent actions or inactions giving rise to this cause of action occurred at Gallup Indian Medical Center in Gallup, New Mexico.
5. Pursuant to statute, Plaintiff timely filed Administrative Claim Form 1095 with the United States Department of Health and Human Services on or about May 9, 2005. Plaintiff has exhausted his administrative remedies.
6. Venue is proper in this district under 28 U.S.C. §1402(b).

8. Defendant United States is liable for the acts of its agents and employees at Gallup Indian Medical Center and is the proper party under the Federal Tort Claims Act (FTCA), 28 U.S.C. Section 2671 et seq. At all times material hereto, Defendant United States of America owned and managed the Gallup Indian Medical Center in Gallup, New Mexico.

9. At all times material hereto, Plaintiff was entitled to receive medical care at Gallup Indian Medical Center.

10. Plaintiff was seen by Dr. Catherine Burns, on or about October 1, 2003, at the Gallup Indian Medical Center in Gallup, New Mexico.

11. Plaintiff had surgery for a fracture of his right radius shaft.

12. Subsequent to Dr. Burns' surgery, Plaintiff has undergone two additional surgeries at St. Vincent Hospital in Santa Fe in an attempt to correct the problems created by Dr. Burns.

13. Defendant, by and through its physicians, nurses, staff and management at the Gallup Indian Medical Center in Gallup, New Mexico, was under the duty to possess and apply the knowledge and to use the skill and care ordinarily used by reasonably well qualified health care providers practicing under similar circumstances, giving due consideration to the locality involved.

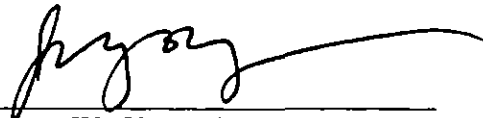
14. Defendant, by and through its physicians, nurses, staff and management at the Gallup Indian Medical Center in Gallup, New Mexico was medically negligent and breached the duties of care owed to Plaintiff.

15. As a result of the medical negligence of Defendant, by and through its physicians, nurses, staff and management at the Gallup Indian Medical Center in Gallup, New Mexico, Plaintiff sustained permanent injuries and damages.

16. As a result of the negligence of Defendant, by and through its physicians, nurses, staff and management at the Gallup Indian Medical Center, Plaintiff suffers from, among other things, permanent disability, decreased function, decreased strength, decreased dexterity and discomfort, and will require medical attention for the rest of his life.

WHEREFORE Plaintiff requests this Court enter judgment in his favor for all damages claimed, for costs and fees as permitted by law, and for such other relief as the Court deems proper.

MARTINEZ, HART & CHASE, P.C.



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